

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Katherine Matejcek	Team: Squad #1	CCRB Case #: 201609340	<input type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Saturday, 10/29/2016 5:30 PM	Location of Incident: § 87(2)(b)	Precinct: 75	18 Mo. SOL 4/29/2018	EO SOL 4/29/2018	
Date/Time CV Reported Sun, 10/30/2016 12:39 PM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Wed, 11/09/2016 12:39 PM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Witness(es)	Home Address
§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. POM Akil Guy	04945	954274	075 PCT
2. POM Horacio Delgado	24175	953809	075 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Horacio Delgado	Abuse: Police Officer Horacio Delgado questioned § 87(2)(b)	§ 87(2)(b)
B.POM Akil Guy	Abuse: Police Officer Akil Guy questioned § 87(2)(b)	§ 87(2)(b)
C.POM Akil Guy	Abuse: Police Officer Akil Guy threatened to arrest § 87(2)(b)	§ 87(2)(b)
D.POM Akil Guy	Discourtesy: Police Officer Akil Guy acted discourteously toward § 87(2)(b)	§ 87(2)(b)
E.POM Akil Guy	Abuse: Police Officer Akil Guy refused to provide his name and shield number to § 87(2)(b)	§ 87(2)(b)
F.POM Akil Guy	Abuse: Police Officer Akil Guy deleted information on § 87(2)(b)'s electronic device.	§ 87(2)(b)
G.POM Akil Guy	Abuse: Police Officer Akil Guy did not obtain medical treatment for § 87(2)(b)	§ 87(2)(b)

Case Summary

On October 30, 2016, § 87(2)(b) filed this complaint with IAB on behalf of herself and her daughter, § 87(2)(b) [01 Board Review]. It was received at the CCRB on November 9, 2016.

On October 29, 2016, § 87(2)(b) was at court in Queens with her § 87(2)(b)-old son, § 87(2)(b). At approximately 5:00 p.m., she received a phone call from a member of the NYPD instructing her to go to the corner of Schenck Avenue and Atlantic Avenue in Brooklyn. § 87(2)(b) took the subway back to Brooklyn and arrived there an hour and a half later. When she arrived, she saw her son's girlfriend, § 87(2)(b) and § 87(2)(b)'s mother, § 87(2)(b). The two police officers on scene, later identified as PO Akil Guy and PO Horacio Delgado of the 75th Precinct, questioned § 87(2)(b) about guns in her home (**Allegations A and B**). PO Guy told § 87(2)(b) that he needed to search her home for guns; asked her to sign a form; informed her that she would be arrested for refusing to sign this form; and, at some point, threatened to handcuff her (**Allegation C**). § 87(2)(b) never saw this form and never agreed to sign anything.

§ 87(2)(b) called her daughter, § 87(2)(b) for advice. § 87(2)(b) stated that PO Guy told her to hang up the phone and grabbed the phone out of her hands when she refused to comply (**Allegation D**). PO Guy spoke to § 87(2)(b) on the phone. § 87(2)(b) asked PO Guy for his name and shield number, but he refused to provide it (**Allegation E**). He ended the call and deleted the call history from § 87(2)(b)'s phone (**Allegation F**). § 87(2)(b) began to feel ill and asked PO Guy to call an ambulance for her three times. Each time, he ignored her requests (**Allegation G**). The incident concluded when the officers told § 87(2)(b) that they were leaving with § 87(2)(b) and that she was free to leave. § 87(2)(b) was not arrested or issued a summons as a result of this incident.

No video footage was available for this incident.

This case is older than 90 days due to delays in obtaining a verified statement. § 87(2)(b) failed to appear for two scheduled interview appointments at the CCRB on November 29, 2016 and December 5, 2016. § 87(2)(b) who was the victim of Allegation D, lives in Georgia and was not available to provide a sworn statement to the CCRB until she was in town on December 19, 2016. Issues with officer identification also delayed this investigation. Requests for warrants and i-cards for § 87(2)(b) or § 87(2)(b) from the date of the incident came back negative, and the Sprint for this incident contained no information that would have connected it to § 87(2)(b)'s complaint [02 Board Review]. The undersigned requested several memo books for officers fitting the subject officer's pedigree information who were working at the time but did not find any mentioning § 87(2)(b), § 87(2)(b), § 87(2)(b) or any incident taking place at or near the corner of Schenck Avenue and Atlantic Avenue that matched what § 87(2)(b) had described. On January 24, 2017, the undersigned requested information pertaining to warrant audits performed for § 87(2)(b) on the date of the incident. On February 3, 2017, this search revealed that PO Delgado had performed a warrant audit for someone named § 87(2)(b) on the date of the incident but with an incorrect birth year [03 Board Review]. Neither PO Delgado nor PO Guy had

any entries in their memo books referring to anything resembling what § 87(2)(b) described, including the location that she had provided [04 Board Review].

Mediation, Civil and Criminal Histories

- § 87(2)(b) lives in § 87(2)(b) thereby rendering this case ineligible for mediation.
- As of February 24, 2017, no Notice of Claim had been filed for this incident [05 Board Review].
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]
[REDACTED]].

Civilian and Officer CCRB Histories

- This is the first CCRB complaint involving § 87(2)(b)
- This is the first CCRB complaint involving § 87(2)(b)
- PO Guy has been a member of the NYPD for 4 years. This is the fourth CCRB case filed against him. One of his prior cases, #201311274, was mediated. #201603800 contained two force allegations that were closed as exonerated and unfounded. #201510250 contained allegations of a vehicle stop and a threat of summons, both of which were closed as exonerated. § 87(2)(g) [07 Board Review].
- PO Delgado has been a member of the NYPD for 4 years. This is the second CCRB case filed against him. His first case, #201510250, contained a vehicle stop allegation that was closed as exonerated. § 87(2)(g) [07 Board Review].

Potential Issues

- The original complainant, § 87(2)(b) never provided a verified statement. As discussed above, she failed to appear for two scheduled interviews without calling ahead to cancel or reschedule, and has not contacted the undersigned since.
- § 87(2)(b) is the only victim who provided a verified statement for this case. However, she was in Georgia at the time and was only involved because she was on the phone with her mother during a brief part of the incident. She was not able to corroborate or deny the other allegations made by § 87(2)(b) as she was not physically present.
- The investigation made several attempts to contact § 87(2)(b) and her mother § 87(2)(b) for a witness statement but did not reach either.

Findings and Recommendations

Explanation of Subject Officer Identification

§ 87(2)(b) was not physically present during this incident and could not provide a physical description of the subject officer. However, she stated that § 87(2)(b) told her that the officer who she spoke with on the phone was the officer who was involved in § 87(2)(b)

§ 87(2)(b) previous, unrelated arrest earlier that month. § 87(2)(b) described this officer as a black male in his late 20s standing 5'6" tall with a heavy build. PO Guy is a § 87(2)(b) - old black male standing 5'10" tall with a heavy build and testified during his interview that he was involved in § 87(2)(b)'s arrest earlier that month. § 87(2)(g)].

Allegation A – Abuse of Authority: Police Officer Horacio Delgado questioned § 87(2)(b)

Allegation B – Abuse of Authority: Police Officer Akil Guy questioned § 87(2)(b)

Allegation C – Abuse of Authority: Police Officer Akil Guy threatened to arrest § 87(2)(b)

Allegation D – Discourtesy: Police Officer Akil Guy acted discourteously toward § 87(2)(b)

Allegation F – Abuse of Authority: Police Officer Akil Guy deleted information on § 87(2)(b)'s electronic device.

Allegation G – Abuse of Authority: Police Officer Akil Guy did not obtain medical treatment for § 87(2)(b)

§ 87(2)(g)

Allegation E – Abuse of Authority: Police Officer Akil Guy refused to provide his name and shield number to § 87(2)(b)

§ 87(2)(b) testified that, after learning that § 87(2)(b) was in contact with the police, she called her and asked what was going on. § 87(2)(b) informed her that officers told her “We know what you did” and told her that if she refused to sign a form she would be arrested. § 87(2)(b) told her mother not to sign the forms and requested that she pass the phone to the officer who was questioning her. § 87(2)(b) handed the phone to PO Guy. § 87(2)(b) introduced herself, asked him what he wanted from § 87(2)(b) and informed him that she has a friend in the NYPD. PO Guy reportedly asked for her friend’s name and she provided it. § 87(2)(b) then asked PO Guy for his name and shield number. The officer did not respond to her question. She overheard him say something inaudible to someone else before he hung up the phone. § 87(2)(b) testified that she believed that PO Guy heard her question because he had just been speaking to her and because he did not immediately hang up the phone.

During her phone statement, § 87(2)(b) stated that PO Guy grabbed her phone out of her hands while she was on the phone with § 87(2)(b). She overheard § 87(2)(b) ask PO Guy for his name and shield number, but stated that he refused to provide it. § 87(2)(b) did not clarify how she was able to overhear this exchange.

PO Guy testified that, prior to the incident, he and PO Delgado were at § 87(2)(b) on a precinct assignment to locate a missing child, § 87(2)(b) -old § 87(2)(b) and her mother live at § 87(2)(b), so the officers were there to ask her mother about anyone else she could have been staying with. PO Guy stated that officers also knew that § 87(2)(b) had been a victim of an assault by her boyfriend, § 87(2)(b), § 87(2)(a), the night before. When the officers arrived at § 87(2)(b), § 87(2)(b)'s mother and sister informed the officers that they had several issues with § 87(2)(b), § 87(2)(a) and § 87(2)(b) in the past and that they suspected that § 87(2)(b) may have been with § 87(2)(b). With the family's help, PO Guy eventually obtained § 87(2)(b)'s phone number, called her, and confirmed that she was at court in Queens with § 87(2)(b). PO Guy explained that, since § 87(2)(b), § 87(2)(a) had just been arrested for domestic violence, an automatic order of protection was created on § 87(2)(b)'s behalf that also barred third party contact, meaning that § 87(2)(b) was in violation of it. PO Guy stated that he identified himself over the phone to § 87(2)(b) and asked her to bring § 87(2)(b) to § 87(2)(b). When § 87(2)(b) and § 87(2)(b) arrived 2-3 hours later, § 87(2)(b) was "shocked" and "argumentative" and repeatedly asked the officers what she did wrong. PO Guy stated that § 87(2)(b) made multiple phone calls while he was present but that he did not know who she was calling. PO Guy stated that he never spoke directly with the person on the phone and never learned that it was her daughter. PO Guy stated that it was possible that § 87(2)(b) attempted to hand him her cell phone. He stated that, had this happened, he would have refused to accept it. PO Guy stated that he never touched § 87(2)(b)'s cell phone for any reason and that § 87(2)(b) never asked him to speak with someone on the phone. However, PO Guy stated that it was possible that § 87(2)(b) was speaking to someone on speakerphone. He testified that, had this been the case, he would not have been paying much attention to the call, as he was simultaneously speaking with PO Delgado, § 87(2)(b) and § 87(2)(b)'s mother and sister. PO Guy stated that he never heard anyone ask him or PO Delgado for their names or shield numbers over the phone. PO Guy stated that § 87(2)(b) never asked him to provide his name or shield number at the scene and did not recall if she ever asked PO Delgado for his name or shield number.

PO Delgado provided the same testimony regarding the context of the officers' interaction with § 87(2)(b). He testified that, once § 87(2)(b) arrived at § 87(2)(b), she was "jittery" and had a difficult time focusing on what officers were telling her. She repeatedly walked away from officers and made several phone calls throughout the incident. PO Delgado stated that § 87(2)(b) called her daughter while he was present. PO Delgado did not recall if he personally spoke with her daughter but stated that she may have been on speakerphone. PO Delgado stated that he overheard someone on the phone ask § 87(2)(b) to ask the officers for their names and shield numbers. § 87(2)(b) then asked the officers for this information, which they provided verbally. PO Delgado stated that neither he nor PO Guy ever refused to provide their names or shield numbers to anyone during the incident. PO Delgado stated that he did not recall if § 87(2)(b) ever addressed him or PO Guy specifically but stated that, to his knowledge, she never directly asked either of them for a name or shield number. PO Delgado stated that he did not recall if § 87(2)(b) attempted to hand him her cell phone and that he never touched her cell phone for any reason.

§ 87(2)(g)

Squad: 1

Investigator: _____
Signature Print Date

Squad Leader: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date